

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

When recorded return to:
Chamberry Fields Dev. Co.
242 S. 200 E.
SLC, UT 84111

OF

CHAMBERRY FIELDS

THIS DECLARATION made and executed this 10TH day of January, 2005, of the City of Highland, Utah County.

RECITALS:

A. Declarant is the record owner of that certain tract of property more particularly described in Exhibit A of this declaration.

B. Declarant desires to provide for preservation of the values and amenities of the Property and for maintenance. To this end, and for the benefit of the Property and of the Owners thereof. Declarant desires to subject the Property described in Paragraph II of this Declaration and the various Lots now or hereafter contained within the entire tract hereinafter described, to the covenants, restrictions, easements, charges, liens hereinafter set forth.

C. Declarant deems it desirable for the efficient preservation of the values and amenities of the property to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. For such purposes has, in conjunction with recordation of this Declaration, caused or will cause to be created under the laws of the State of Utah.

NOW THEREFORE, Declarant hereby covenants, agrees and declares that all of the Property described in Article I hereof shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, obligations, and lien hereinafter set forth.

I. DEFINITIONS

1.1. Board shall mean and refer to the Boar of Trustees of the Association as duly elected in accordance with the terms and conditions of the covenants, conditions, and restrictions of the Association.

1.2. Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions.

1.3. Development shall at any point in time mean, refer to, and consist of the Subdivision then in existence.

1.4. Living Unit shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Lot concerned which are used in connection with such residence.

1.5. Lot shall mean and refer to any one of the separately numbered and individually described plots of land described on a Plat which is intended to be used as the site of a single Living Unit.

1.6. Member shall mean and refer to every person who holds a membership in the Association.

1.7. Mortgage shall mean any mortgage, deed of trust, or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed or deed of trust.

1.8. Mortgagee shall mean any person named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.9. Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Utah County, Utah) of a fee or an undivided interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust of like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary of trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.10. Parcel shall mean and refer to the Property which is subject to this Declaration, which is filed for record in the office of the County Recorder of Utah County, Utah, is separately subjected to the terms of this Declaration with the intention that it shall thereby compromise the Development. The real property described in Article II of the Declaration constitutes a Parcel.

1.11. Plat shall mean and refer to any subdivision plat, or any plat or map similar to any of the foregoing: (a) which covers the Property; (b) which describes or creates one or more Lots; (c) on which or is an instrument recorded in conjunction therewith there is expressed the intent that the subdivision created by the Plat shall comprise the Development; and (d) which is filed for record in the office of the County Recorder of Utah County, Utah. Recorded concurrently with this Declaration is a Subdivision Plat of Chamberry Fields Subdivision, and executed and acknowledged by Declarant, and creating separately numbered Lots. Said subdivision plat constitutes a Plat.

1.12. Property shall mean and refer to all of the real property which is covered by a Plat.

1.13. Subdivision shall mean and refer to the entire residential development which is created and covered by a Plat.

II. PROPERTY DESCRIPTION

2.1 Submission. The property which is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of the following-described real property situated in Utah County, State of Utah.

ALSO DESCRIBED AS FOLLOWS:

Lots 1-18 of Chamberry Fields Plat B

Lots 19-34 of Chamberry Fields Plat C

As Recorded in the official records of the Utah County recorders office in Provo, Utah.

III. USE RESTRICTIONS

3.1. Use of Lots and Living Units. All Lots are intended to be improved with Living Units and are restricted to such use. Each Living Unit shall be used only as a single-family residence. No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner.

3.2. Building Features and Materials.

(a) Building Location. Each building shall be located to meet Highland City's front yard, back yard and side yard requirements.

- (i) For the purposes of this covenant, eaves, steps and open porches shall not be considered a part of a building.
- (ii) Each Residence shall have a main floor area of no less than 2000 square feet. A two story structure shall have a minimum combined square footage of 2600 square feet.
- (iii) The height of the house shall not exceed 36' from the top of the curb to the highest point of the ridge.
- (a) Garages. Garages must be fully enclosed, accommodate a minimum of two cars, and be equipped with an automatic garage door opener and located on the side or rear of the dwelling. Carports are not permitted.
- (c) Exterior Building Wall Materials. Masonry, stone, concrete plank siding and concrete plan shingles and no more than 80% stucco are permitted for the exteriors of Living Units. In the case of walk-out basements this percentage may be amended per the Architectural Control Committee. The use of any other materials for such buildings shall require the prior approval of the Architectural Control Committee.
- (d) Roof, Soffit and Facia. Roof, soffit and facia material shall be restricted to wood shingles, or shakes, slate, non-reflective metal, tile, architectural grade asphalt or fiberglass, and other materials approved by the Architectural Control Committee. The use, design and color of roof, soffit and fascia materials is subject to the approval of the Architectural Control Committee. All roof metal including, but not limited to flashings, drip metal, valley metal, caps, stacks, vents and jacks must be colored or painted to match the roof color.
- (e) Accessory Structures. Patio structures, trellises, sunshades, gazebos and any other appurtenant buildings shall be constructed of materials consistent with the colors, textures and materials approved for the dwelling and shall be integral to the architecture of the house and subject to the approval of the Architectural Control Committee.
- (f) Chimneys. Chimneys of approved exterior materials may not exceed the height required by appropriate governmental agencies. Exposed metal flues are not acceptable, with the exception of copper.
- (g) Fences and Walls. Fencing and walls shall be vinyl, masonry, stone, or wrought iron (no chain link fences). Fences and walls are to be color coordinated with the approved dwelling colors. Fences shall not extend past the front face of a Living Unit. Fence design and location must be submitted to the Architectural Control Committee for approval. Note: Any lot backing up to any open space (wider than 40' feet) requires a fence (if one is installed) to be no taller than 6' feet, with it also being 55% open. If open space is less than 40' feet wide, fence may only be 5' feet (55% open) in height. This fencing requirement may be modified according to the current Highland City Open Space fencing requirements.
- (h) Paving. Driveway and other flat paved areas may be concrete, exposed aggregate concrete, stamped concrete, asphalt, quarry tile, brick or paving blocks. Gravel areas are not permitted.
- (i) Solar Equipment. Solar panels shall not be installed or maintained on any Lot of Living Unity without the prior written approval of the Architectural Control Committee.
- (j) Antennas. Satellite dish (small) antennas shall be allowed provided there are screened from view and their location is approved by the Architectural Control Committee.
- (k) Skylights. Skylights are to be designed as an integral part of the roof. Skylight glazing may not be reflective. Skylight framing shall be copper or colored to match adjacent roofing materials.

(l) Pools, Spas, Fountains, Game courts. Pools, spas, fountains and game courts shall be approved by the Architectural Control Committee and shall be located to avoid impacting adjacent properties with light or sound. Pool heaters and pumps must be screened from view and sound insulated from neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or ramps, which structures shall be prohibited.

(m) Sheet Metal, Flashing and Vents. All sheet metal, flashing, vents and pipes must be colored to match the material to which they are attached or from which they project, with the exception of copper.

(n) Mechanical Equipment. All air conditioning and heating equipment must be screened from view and insulated for sound attenuation. Air conditioning units are not permitted on roofs or through windows. Swamp coolers shall not be permitted as means of air conditioning a Living Unit to an accessory building or for any other purpose.

(o) Gas and Electric Meter. Meter locations are to be designed into the architecture of the dwelling and screened from view.

(p) Exterior Lighting. Each Lot Owner is required to use in the landscape plan in the front of the house a minimum of four (4) Westerfield Model No. F51341 fluorescent ground lights (or like kind) to provide site lighting. In addition to the foregoing, Owners shall be permitted to utilize accent and spot lights on their Living Units.

(q) Landscape Site Preparation Guidelines. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must be performed within the confines of a Lot.

(r) Site Grading. Except as set forth below, neither the Owner of a Lot nor any person or persons acting for an Owner shall at any time raise, lower, or otherwise change the grade of any Lot or Lots or otherwise permit another to change such grade from the grade established by Declarant without permission of the Architectural Control Committee.

(s) City and Other Approval. Approval of any living unity or other improvements by the Architectural Control Committee does not waive the requirement for any other required public agency review or permit approval process. By approving plans, the Architectural Control Committee takes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration and any Architectural Guidelines. Each Owner shall comply with all applicable City and County ordinances, rules and regulations.

3.3. Landscaping. Each Owner of a Lot shall be responsible for the installation and maintenance of landscaping in accordance with the provisions of this Section VI and the other provisions of this Declaration.

(a) Each Owner of a Lot shall be required to submit a Landscape Plan, consistent with the requirements of this Section, to be approved by the Architectural Control Committee in accordance with the requirements of Article VII.

(b) All trees, shrubs and other vegetation to be installed and maintained upon a Lot shall comply with the approved Landscape Plan and with the following criteria. The landscape plan prepared by a landscape architect must be submitted for approval by the Architectural Control Committee prior to application for a building permit. (3) Sets of drawings must be submitted. Showing the plant material layout material list and the lighting design.

3.4. Recreational Vehicles. No boats, trailers, large trucks and commercial vehicles belonging to Owners or other residents of the Property shall be parked within the Development, except temporary parking not to exceed seventy-two (72) hours. No motor vehicle of any kind shall be repaired, constructed

or reconstructed upon and Lot, except that these restrictions shall not apply to emergency repairs to vehicles. Any motor or recreational vehicle must be kept in an enclosed garage.

3.5. Pets. No animals other than small household pets shall be kept or allowed on any Lot. No pets shall be caged or housed outside the dwelling unit. Whenever a pet is allowed to leave a Lot, it shall be kept on a leash or in a cage. No animals may be bred for commercial purposes. No pets shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. Any owner or other resident within the Development who violates this Section shall be subject to such penalties or fines as the Board by resolution or as regulation may provide.

3.6. Insurance. No use shall be made of any living unit which shall cause the improvements within the development or any part thereof to be uninsurable against loss by fire or other peril included in insurance contracts, or cause such insurance to be cancelled or suspended, or cause any company issuing such insurance to refuse renewal thereof. Each Owner shall be responsible for securing insurance presently known as homeowners special from coverage (Form 3, or better).

3.7. Machinery and Equipment. No machinery or equipment of any kind shall be placed, used, operated or maintained in or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Living Unit or appurtenant structures.

3.8. Maintenance and Repair. No living unit, building, structure (including interiors thereof), or landscaping upon any Lot shall be permitted to fall into disrepair and, subject to the requirements herein as to approval by the Architectural Control Committee, each such building, structure, or landscaping at all times shall be kept in good condition and as appropriate, adequately painted or otherwise finished by its Owner. Such obligation shall extend, but shall not be limited to, the painting, repair, replacement and care of roofs, gutters, downspouts, and exterior building surfaces.

3.9. Nuisances. No rubbish or debris of any kind shall be placed or permitted by an Owner upon or adjacent to any Lots, so as to render such Lot or portion thereof unsanitary, unsightly, offensive, or detrimental to other Owners. No living unit or lot shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other living units or lots. Without any of the foregoing, no exterior speakers, bright lights, horns, whistles, bells or other sound devices (except security devices used exclusively for security purposes) shall be located or placed on lots or living units.

3.10. Right of Entry. During reasonable hours, any member of the Architectural Control Committee or any member of the Board, or any officer or authorized representative of any of them, shall have the right to enter upon and inspect any building site or Lot, and the improvements thereof, to ascertain whether or not the provisions of this Declaration and the rules and regulations of the Board or of the Association have been or are being complied with.

3.11. Signs. No signs whatsoever (including, without limitation, political signs) shall be erected or maintained on any Lot, except:

- a. Such signs as may be required to be legal proceedings.
- b. Construction identification signs of a combined total face area of two thousand three hundred four (2,304) square inches or less for each living unit.
- c. A "For Sale" sign, to the extent permitted by the Board.

3.12. Trash Containers and Collection. All garbage and trash shall be placed and kept in covered containers inside each residence or adjacent structure. Insofar as possible, such containers shall be maintained as not to be visible from neighboring lots except to make them available for collection and then only for the shortest time necessary to effect such collection. Containers shall be of type approved and supplied by the County waste collection.

3.13. Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

a. Declarant, so long as it has any interest in any of the Property.

b. Any Owner.

The prevailing party in an action for the enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

3.14. Exception for Declarant. Notwithstanding the restrictions contained in this Article VI, for the then (10) years following the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah, Declarant shall have the right to use any Lot of Living Unit owner by it, when reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvements and/or ale of all Lots owned by the Declarant.

IV. ARCHITECTURAL CONTROL

4.1 Architectural Control Committee. The declarant shall initially assume the role of the Committee, the function of which shall be to ensure that all improvements and landscaping within the property harmonize with existing surroundings and structures. The Committee need not be composed of Owners. If such a Committee is not appointed the Board itself shall perform the duties required of the Committee. The Declarant shall appoint a Committee after January.

4.2 Submission to Committee. No living unit, accessory building or structure or addition to a living unit and no landscape additions and changes shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any living unity, nor of any court enclosure, except as herein otherwise mentioned, shall be performed, unless three (3) sets of preliminary plans and specifications therefore have first been submitted to and approved by the Committee. All such plans and specifications shall be consistent with Architectural Guidelines which shall be from time to time adopted by the Committee, and shall include, among other matters, (i) a plot plan showing contour lines, drainage and grading plan; (ii) drawings and specifications showing floor plans, elevations, and sample of exterior materials and colors; (iii) working drawings; and (iv) construction specifications.

4.3 Procedure and Content of Drawings for Submittal.

Preliminary plans

- First submittal must show general form and plan of the house. The drawings must be drawn by a professional and be of sufficient quality to communicate to the review committee the type and extent of exterior materials on all four sides of the house. The house must have the same appearance as to materials on all sides.
- The first submittal must include a board containing samples of all the proposed materials. The materials will be the exact color, pattern and texture to be used. Two boards will be prepared; one board stays with the Architectural Committee.
- Submit a \$350 check made out to Chambery Fields LLC. Submittals will be delivered to Kevin Watts Architects. 5200 South Highland Drive Suite #100, Salt Lake City, Utah.
- After an approved preliminary submission to the committee, the owner will prepare the final plans (construction).
- The specifications will show the manufactures name or supplier for all exterior materials that were approved at the preliminary submittal stage.
- An approval letter from the Architectural Control Committee will be required to secure a Building Permit.
- Submit a set of Landscape Drawings prepared by a professional landscape architect. Show species, size and quantities of plan material proposed. The drawings will show

proposed exterior materials, play areas, patios, drives, walks, pools, etc. location of the minimum (6) exterior ground lights (Westerfield) will be shown.

4.4 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on Lots within the Property are in compliance with the requirements of this Declaration and conform to and harmonize with existing surroundings and structures and that such proposed improvements enhance the value and aesthetics of the project. The color of each residence will be carefully reviewed and is subject to the approval of the committee.

4.5 Approval Procedure. Any plans and specifications submitted to the Committee shall be submitted on a form provided by the Committee and in duplicate. A preliminary review of design drawings is recommended with a final review to be made of working drawings. Upon completion of each review, one set of plans will be retained by the Committee and the remaining sets of plans will be returned to the Owner.

The following architectural review fees (made payable to the committee) are required with the submittal of plans and specifications: \$350.00 for architectural, landscaping, fencing and lighting drawings.

All plans and specifications shall be approved or disapproved by the Committee in writing within twenty-one (21) days after submission. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material submitted.

4.6 Bond/Security Deposit. The Architectural Control Committee will require that an Owner post a bond, cash security deposit or irrevocable letter of credit in a form satisfactory to the Architectural Review Committee, in an amount not to exceed \$3,000.00, and \$5,000.00 for landscaping installation, in favor of the Association, as a condition to approving any proposed work or improvement. No person shall commence any work or improvement until any and all such bonds, security deposits and letters or credit have been properly posted with the Committee.

The deposit is intended to assure the proper clean-up of dirt and debris and the repair of any damage to the landscaping, streets or other property within the Subdivision, caused by Owner or his agents in the construction of improvements.

4.7 Address for Submittal. Plans and specifications for the construction and installation of any and all improvements within Chamberry Fields shall be submitted and approved by the Architectural Control Committee (prior to submittal to any required governmental agency) at the following address:

Chamberry Fields LLC
 C/o Greg Watts
 5200 South Highland Drive, Suite #100
 Salt Lake City, Utah 84117

The Architectural Committee has the authority to change the address for the submittal of plans and specifications.

4.8 Construction. (a) Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion:

(i) The exterior construction of all structures on any Lot shall be completed within a period of eighteen (18) months following commencement of construction.

(ii) The front yard of each Lot shall be landscaped within a period of one (1) year following completion or occupancy of the Living Unit.

(iii) Side and rear yards shall be landscaped within a period of one (1) years following completion or occupancy of each dwelling.

(b) Owners and builders shall clean up all trash and debris on the construction site at the end of each week and deposit the same in dumpsters provided by Owners and builders for such purposes. Such dumpsters shall be emptied to an approved dumping location off-site of the development as periodically required. Lightweight material, packaging and other items shall be covered or weighted down to prevent wind from blowing such materials off the construction site. Owners are prohibited from dumping, burying or burning trash anywhere on the lot. During the construction period, each construction site shall be kept neat: building materials shall not be stored on public roads, adjacent lots and/or open spaces. Construction debris shall not be placed on adjacent lots. Each property owner shall be responsible for providing adequate sanitary facilities for his construction personnel.

4.9. Liability for Damages. The Association shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article VII.

4.10 Exception for Declarant. The foregoing provisions of this Article VII shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant on any Lot and which occurs at any time during the seven (7) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah.

V. RIGHTS OF FIRST MORTGAGEE

Notwithstanding anything to the contrary contained herein, the following provisions shall apply:

5.1 Notice of Default. In the event an Owner neglects for a period of thirty (30) days or more to cure any failure on his part to perform his obligations under this Declaration, the Association shall give written notice of such fact to the holder of any first mortgage covering such Owner's Lot.

5.2 Abandonment, Termination, Etc. Unless all of the holders of first mortgages on the individual Lots have given their prior written approval, neither the Association nor the Owners acting as group shall be entitled by act, omission or otherwise:

(a) To abandon or terminate the project or to abandon or terminate the arrangement which was established by the Declarant and the Plat of the Project:

(b) To partition or subdivide any Lot:

(c) To use hazard insurance proceeds resulting from damage to any part of the development for any purposes other than the repair, replacement, or reconstruction of such improvements.

5.3 Notice of Substantial Damage or Destruction. The association shall notify all institutional holders of any first mortgage lien or equivalent security interest on a Lot in writing in the event that there occurs any substantial damage to or destruction of any Living Unit, involving an amount in excess of, or reasonably estimated to be in excess of \$15,000.00. Said notice shall be given within ten (10) days after the Association learns of such damage or destruction.

5.4 Condemnation or Eminent Domain Proceedings. The Association shall give written notice to all institutional holders of any first mortgage lien or equivalent security interest of any condemnation proceedings or proposed acquisition of a Living Unit within ten (10) days after the Association learns of the same.

5.5 Hazard Policy to Include Standard Mortgagee Clause. Each hazard policy of the insurance shall include the standard mortgagee clause which either shall be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interests may appear, or shall be otherwise endorsed to fully protect the interest of mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each mortgagee at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

5.6 Rights Upon Foreclosure of Mortgage. The lien of the assessment provided in Section 1, Article V shall be subordinate to the lien of any First Mortgage upon such Lot; and the holder of a first mortgage (or deed of trust) on a Lot who comes into possession of the Lot by virtue of foreclosure of such first Mortgage, or in lieu of foreclosure obtains possession by deed or assignment, or any purchaser at a foreclosure sale, will take the Lot free of any claims for unpaid assessments and charges against the Lot which accrue prior to the time such holder comes into possession of the Lot, except for claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all Lots including the mortgage Lot.

5.7 Mortgagees' Rights Concerning Amendments. No material amendment to this Declaration, the By-Laws or the Articles of Incorporation of the Association shall be accomplished or effective unless at least two-thirds (2/3) of the mortgagees (based on one vote for each mortgagee) of the individual Lots have given their prior written approval to such amendment.

VI. MISCELLANEOUS

6.1 Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the person who appears as a Member or Owner, at the latest address for such person appearing in the records of the Association at the time of mailing.

6.2. Amendment. Subject to the provisions of Section 2 of Article VIII of this Declaration any amendment hereto shall require (i) the affirmative vote of at least two-thirds (2/3) of all Class A membership votes, which Members present in person or represent by proxy are entitled to cast a meeting duly called for such purpose; and so long as the Class B membership exists. (ii) the written consent of the Declarant. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all votes of the Class A Membership shall constitute a quorum. If the quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 3), at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the President or Vice President of the Association, and by the Declarant if the Class B Membership then exists, and shall also be approved by the Utah County Attorney. In such instrument the President or Vice President of the Association shall certify that the vote required by this Section for amendment has occurred.

6.3. Consent in Lieu of Voting. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership considered. The following additional provisions shall govern any application of this Section 9.3.

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.

(b) The total number of votes required for authorization or approval under this Section 3 shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in an increase in the total

number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

(d) Unless the consent of all Members whose memberships are appurtenant to the same Lot are secured, the consent of none such Members shall be effective.

6.4. Lease Provision. Any Owner may lease his Lot and such building as are situated thereon; provided, however, that any lease agreement between a Lot Owner and a Lessee must be in writing, and must provide, inter alia, that:

(a) The terms of the lease shall in all respects be subject to the provisions of the Declaration, Articles of Incorporation of the Association and the By-Laws; and

(b) Any failure by the Lessee to comply with the terms of such documents shall constitute a default under the lease.

6.5. Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the property may be assigned.

6.6. Dissolution. Subject to the restrictions set forth in Article IX of this Declaration pertaining to mortgagee protection, the Association may be dissolved by the affirmative assent in writing of two-thirds (2/3) of the votes of each class membership. Upon dissolution of the Association all of its assets (including the Common Areas) may be dedicated or transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in the By-laws, the Articles of Incorporation or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a non profit corporation, trust, or other entity to be used for such similar purposes and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the assessments.

6.7. Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

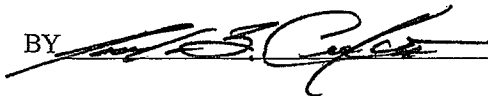
6.8. Reservation of Right to Buy. In the event that construction of a Living Unit is not commenced within five (5) years from the date of closing of a sale of a Lot by Declarant to an Owner and notwithstanding that such Lot may be owned by an Owner who did not purchase the Lot directly from Declarant. Declarant shall have the right to repurchase such Lot at the appraised value of the Lot as determined by Owner and Declarant in conjunction with a qualified appraisal. In the event that Declarant elects to repurchase a Lot pursuant to the provisions of this Section 9.8. Declarant shall give written notice of its election to the then Owner of such Lot and such repurchase shall be closed within sixty (60) days after the date of such notice at a location acceptable to Declarant. Declarant's right to repurchase any Lot within the Development shall automatically terminate ten (10) years from the date of recording of this Declaration. Provided that Declarant shall have the right to close the repurchase of any Lot from which notice of repurchase has been given to the Owner prior to the expiration for ten (10) years from recording.

6.9. Covenants to Run With Land. This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitude, as the case may be, and shall be binding upon and shall inure to the benefit of the Declarant. And all parties who hereafter acquire any interest in a Lot shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration: and failure to comply with any of the foregoing shall be grounds for an action by the Association or aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

6.10. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder or Utah City, Utah.

EXECUTED the day and year first above written.

Declarant "The Chamberry Fields"

BY 

BY _____

BY _____

BY _____

STATE OF UTAH

COUNTY OF UTAH

- see corporate acknowledgment -

On the 8th ^{*3/23/06*} day, personally appeared before me (_____), who being by my dully sworn did say they executed the same.

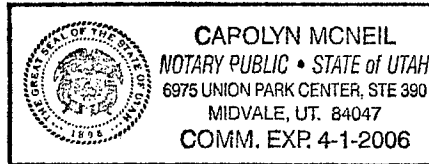
NOTARY PUBLIC, Residing at:

My Commission Expires: _____

State of Utah

County of Salt Lake

On the 23rd day of March, 2006, personally appeared before me, Gordon S. Crofts, who duly sworn did say, that he is the president of Chamberry Fields Development Corp. and the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and said Gordon S. Crofts duly acknowledged to me that said corporation executed the same.



Notary Public

A handwritten signature in cursive script, appearing to read "Gordon S. Crofts", written over a horizontal line.